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OGC HAS REVIEWED.

22 October 1953

MEMORANDUM FOR THE RECORD

SUBJECT: Interpretation of NSCID-5 and Its Relationship to Agreed Activities

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1. Mr. Robert D. VanRijken of General Balmer's Staff came to discuss with me the interpretation of NSCID-5 and its relationship to agreed activities. He stated that an arrangement with CIC for joint activities in [redacted] negotiated almost to a successful conclusion under General McClure, had come to a halt with his successor, who said that NSCID-5 legally prevented combined activities between counterespionage and counterintelligence. I told Mr. VanRijken that in our opinion an attempt to solve this subtle problem on a legalistic basis would lead nowhere but into confusion and controversy. Also, I do not believe it too important to spend a great deal of time trying to define counterespionage and counterintelligence activities in detail.

2. I felt that generally the problem rested on the question of responsibility and, therefore, was no different fundamentally from the positive problems of national and departmental intelligence and other related problems, such as the Watch Committee and even the current budget problems. Thus, there are some activities which are clearly counterintelligence, such as those relating to the physical security of installations and the internal security involving U. S. personnel. In these we have no interest except as we could contribute from incidental information picked up through our proper channels. Equally clear are some of the purely counterespionage activities of CIA dealing with Communist operations and psychological or physical subversion. Between these two is a large area of combined and occasionally conflicting interests.

3. To my mind, therefore, the problem became one of educating field commanders and the CIC on the problem of divergent responsibilities with the hope of impressing them that the Director's responsibility for the national security overcame the immediate interest of a post or a station if the two were in direct conflict on an equal basis. Of course, where the national security interest is remote or tentative and the CIC interest is immediate and compelling, counterespionage interest should normally yield to the immediate circumstances. It is where the interests seem evenly balanced that the problem becomes truly difficult.

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4. I told Mr. VanRijken I thought a possible approach would be to demonstrate that where the national security interest appeared in a CIC operation the person conducting the operation should recognize it and realize that unless he provided for proper attention to the counterespionage aspects at the possible expense of his own CIC interests, he was assuming unnecessarily and improperly a responsibility which he could readily pass to the counterespionage side, responsible properly for such matters to the Director of Central Intelligence. Mr. VanRijken appeared very interested in this analysis and said he would probably be in touch with us.

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LAWRENCE R. HOUSTON  
General Counsel

cc: EO/DD/A

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